

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16080 of the National Public Radio, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 701.8 to allow the addition of two satellite dish antennas, and an antenna tower to support two whip and three yagi antennas on the roof of an office building in a DD/C-3-C District at premises 635 Massachusetts Avenue, N.W. (Square W-484, Lot 21).

HEARING DATE: December 20, 1995

DECISION DATE: December 20, 1995 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE:

The property which is the subject of this application is known as 635 Massachusetts Avenue, N.W. (Square W484, Lot 21). The site is zoned DD/C-3-C.

The site is located on the north side of Massachusetts Avenue between 6th and 7th Streets, N.W. It contains 25,903 square feet of land area and is improved with a seven-story office building which has a gross floor area of 250,052 square feet. The building occupies 100 percent of the site, and contains 127 parking spaces. The structure is being used as the headquarters for National Public Radio (NPR) which is the principal public radio network in the United States with 438 member stations nationwide. NPR also manages the nationwide public radio satellite system which distributes programming for a fee to independent producers, program syndicators and distributors, national, state and local organizations, and local public radio stations, as well as NPR.

In 1992, the Board approved the installation of five antennas on the rooftop of the building and required screening of a portion of the roof. In 1993 and 1994, the building was extensively renovated by NPR. In the subject application, NPR is seeking special exception relief to permit the installation of two additional satellite dish antennas and a short tower supporting two whip and three yagi antennas on the roof of 635 Massachusetts Avenue, N.W. in accordance with the specifications shown on the plans marked as Exhibit No. 23 of the record.

The applicant stated that Subsection 701.8 of the Zoning Regulations permits only one roof mounted antenna as a matter of right, subject to compliance with the following standards (as applicable):

- (a) Each part of the antenna is removed from all edges of the roof a minimum distance equal at least to its height above the roof;
- (b) The antenna, to the maximum practical extent, shall be of black mesh construction, or of materials and colors that blend with the surroundings;
- (c) The installation shall be located and screened as to minimize the view of the antenna from the grounds;
- (d) If the antenna is located on the roof of a building which has a height of sixty-five feet (65') or less, the antenna shall not be visible from the ground;
- (e) If the height of the roof is ninety feet (90'), the mounted height of the antenna at its highest point shall not exceed eighteen feet six inches (18'6"), above the roof.
- (f) If the height of the roof exceeds ninety (90'), the mounted height of the antenna at its highest point shall not exceed eighteen feet six inches (18'6"), above the roof.

The Regulations further provide that any deviations from the above-described location, density and height standards require special exception relief.

The applicant stated that the satellite dishes proposed by NPR for installation on the roof of 635 Massachusetts Avenue, N.W. deviate from these standards in several respects. First, as noted previously, two additional dishes and a tower supporting three small antennas are proposed over an above the five existing antennas. Only one is permitted as a matter of right.

Second, one of the dishes and the tower exceed the 12-foot height standard. The height of the dish is seventeen feet and the height of the tower is 34-feet. In addition, this dish does not meet the setback standards. The center mount for the 17-foot high dish is located approximately 17-feet from the face of the building, but the closest part of the antenna is located approximately 13-feet from the face of the building.

The applicant stated that all of the proposed antennas are needed in order for NPR to carry out its mission at the subject property. Locating the antennas at a separate location is not an economically feasible alternative.

Detailed Description of the Size, Location, and Purposes of the
Proposed Antennae (as shown on Roof Plan)

1) Antenna No. 6:

3.0 meter (10-foot diameter) Comtech Ku-band receive-only dish antenna. This dish is used for the reception of Spanish-language programming from one satellite which is then retransmitted to non-commercial radio stations via the Public Radio Satellite which uses a different satellite and technical standards. The top of this antenna is approximately seventeen feet above the roof of the sixth floor. The center of the mount for this dish antenna is located approximately seventeen feet from the face of building (which is also the property line), with the closest part of the antenna approximately thirteen feet from the face of the building. This antenna was installed on or about November 26, 1994. It was installed at that time because NPR was under an obligation to the Corporation for Public Broadcasting to provide the retransmission of their Spanish-language service and other antennas were not able to satisfy this requirement.

2) Antenna No. 7:

0.5 meter (2 foot diameter) receive-only dish antenna. This dish is used for reception of Reuters news wire service. This dish is mounted to the face of the mechanical penthouse, with its highest part approximately twelve feet above the roof of the sixth floor. The closest part of the dish is approximately twenty-one feet from the face of the building. This dish was installed on or about May 6, 1995. It was installed at the time because Reuters changed its method of distributing its service, and NPR had no other means to receive this important news source.

3) Antenna No. 8:

The triangular antenna tower is one foot on each face and approximately thirty-four (34) feet to its apex. This tower and the antennas which it supports have been amended since the original BZA submission. This antenna tower will be mounted on the roof of the seventh floor, and attached to the face of the mechanical penthouse. It will extend twenty-two feet above the roof of the

penthouse and it will be located approximately thirty-eight feet from the face of the building. It will be used to mount five small antennas of the yagi and whip variety. This antenna tower has not been erected.

Affect on Neighboring Property:

The applicant maintains that installation of the proposed antennas will not have a negative visual impact on the area. The applicant stated that the proposed antennas are located on the south side of the building and all but one of the antennas are located on the roof of the sixth (as opposed to the partial seventh) floor of the building. Although placement of the antennas on this side of the building is dictated by the necessity that the antennas have an unobstructed view of the southern sky (communications satellites are orbiting above the equator), such placement has an aesthetic advantage as well. To the extent that the antennas are visible from any nearby buildings, they are visible from downtown commercial buildings rather than from any residential buildings to the north or from Mount Vernon Square to the west.

The applicant stated that while some of the proposed antennas do not meet the setback standards, they have been positioned on the roof as far from the building perimeter as physically possible. The location of the partial seventh floor and the building penthouse, limit the degree to which the antennas can be set back farther from the building perimeter. These structures shield any visibility of the antennas from the west, however, and along New York Avenue. Further, the installation of a mesh screen to fill in the open space between the columns of the perimeter "frame" practically eliminate the visibility of the antennas from grade level.

With respect to the height of the proposed antennas, the applicant stated that, all parts of all antennas are located well below the roofline of the upper penthouse. None of the antennas pierce the 45-degree plane from the top of the perimeter frame enclosure and are far below the plane if it were to begin at the maximum building height line.

With regard to the color of the antennas, the applicant testified that it is currently a light, steel gray and that the color is dictated by technical considerations. However, the applicant expressed a willingness to paint the proposed tower the same shade as the penthouse to which it is attached to camouflage it. However, the applicant noted that the lower portion of the antenna tower is not likely to be visible from the street.

The Office of Planning (OP) submitted a report dated December 13, 1995 recommending conditional approval of the application. OP stated that, in its opinion, the applicant has met the burden of

proof for the requested relief. Accordingly, OP recommended approval of the special exception with the following conditions:

1. Installation of the antennas shall be as shown on the applicant's drawings submitted to the record and to be approved by the Board.
2. The antenna tower shall be painted the color of the penthouse to which it would be attached to minimize its visual impact.

One person who resides at 2400 Virginia Avenue, N.W. appeared in opposition to the application. She testified that she is the First Vice President for the Federation of Citizens Association of the District of Columbia, an organization that represents about 70 civic associations. She expressed a number of concerns about the impact that the transmitting antennas will have on people who live and work near the subject site. She testified that she personally suffers from the effects of electromagnetic radiation emissions and she is concerned that others will be affected as well. She inquired about what agencies were examining these effects and who would be responsible for the adverse effects on the District of Columbia.

This witness did not request party status, nor did she present expert testimony on the adverse impacts of electromagnetic emissions.

In response to the opposing witness' statement, the applicant stated that there is only one antenna intended for transmission. It is a two-way radio antenna, one of the whip antennas on the antenna tower. It is 450 megahertz at 100 watts of effective radiated power.

Impact on the Zone Plan:

The applicant stated that the project will encourage a balanced economy in the District of Columbia. The applicant stated that the city government has identified the entertainment industry as a key target industry in its economic development plan for the city. The city's plan will seek to retain and foster the growth of existing entertainment related institutions and to attract new ones. This economic development concept for Washington is well served by this project. The applicant produces and distributes from its headquarters a number of award winning, culturally diverse documentaries, music and information programs.

The applicant stated that important downtown land use objectives are served by NPR's presence at 635 Massachusetts Avenue. The city's recently adopted plan for downtown calls for a mix of office, retail, residential, entertainment, and cultural

land uses which will attract and serve a variety of users and ensure both daytime and evening activity downtown. NPR is a high profile educational and cultural media institution that is in operation 24 hours a day. NPR's occupancy also contributes to a geographically-balanced economy in the District and increases the demand for food services, retail outlets, and other services in the area.

The applicant maintains that the standards for special exception relief are met and the application should be granted.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds that:

1. While the proposed antennas and tower do not meet the height and setback requirements of Subsection 701.8, they are needed by the applicant to carry out its mission.
2. The light metal color proposed by the applicant will ensure the antennas and tower will blend with the surrounding area.
3. There is screening on the roof top to camouflage the existing antennas. However, additional screening is needed to improve the appearance of the rooftop from the street.
4. There is insufficient reliable evidence to make a finding that there will be adverse effects from the electromagnetic radiation emanating from the antennas.
5. There will be only one transmitting antenna of 450 megahertz installed.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to allow the addition of two satellite dish antennas and an antenna tower on the roof of an office building in a DD/C-3-C District. Granting such a special exception requires a showing through substantial evidence that the proposal will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board concludes that the applicant has met this burden of proof.

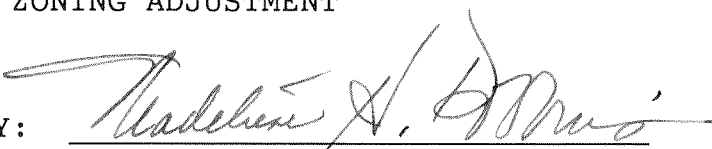
The Board concludes that the color, location and screening of the antennas and antenna tower will not create an adverse impact on the area. The Board further concludes that the proposal will be in harmony with the general purpose and intent of the Zoning Regulations and Map for the DD/C-3-C District.

In light of the foregoing, the Board concludes that the application is **GRANTED**, subject to the **CONDITION** that within three years from the date of this order, the applicant shall extend the rooftop screening to the northeast corner of the roof up to K Street.

VOTE: 3-1 (Angel F. Clarens, Laura M. Richards and Maybelle Taylor Bennett to grant; Craig Ellis opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

MAR 28 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16080/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

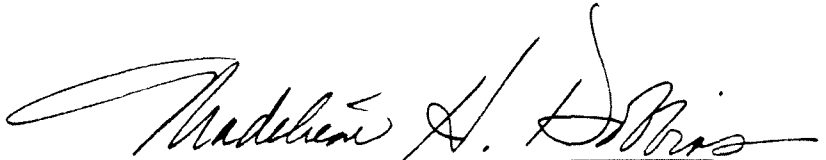


BZA APPLICATION NO. 16080

As Director of the Board of Zoning Adjustment, I certify and attest that on MAR 28 1991 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Cynthia Giordano, Esquire
Arter and Hadden
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006

Lawrence L. Thomas, Chairperson
Advisory Neighborhood Commission 2C
Terrell Junior High School
Shaw/Terrell Community Center
1st and Pierce Streets, N.W.
Washington, D.C. 20001


MADELIENE H. DOBBINS
Director

Date: MAR 28 1991